

HOUSE No. 1375

By Mr. Petersen of Marblehead, petition of Douglas W. Petersen and others relative to the abatement of scrap tire stockpiles and the proper management of scrap tire generation. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

PETITION OF:

Douglas W. Petersen Michael E. Festa
Anthony J. Verga

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE ABATEMENT OF SCRAP TIRE STOCKPILES AND THE PROPER MANAGEMENT OF SCRAP TIRE GENERATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. *Whereas*, Disposal of scrap tires is a national and
- 2 a state problem; and
- 3 *Whereas*, In the Commonwealth of Massachusetts it is esti-
- 4 mated that there may be as many as 10 million scrap tires stock-
- 5 piled throughout the Commonwealth; and
- 6 *Whereas*, It is estimated that there are six million scrap tires
- 7 generated in the Commonwealth each year; and
- 8 *Whereas*, The scrap tire problem is exacerbated by the fact that
- 9 tires do not decompose; and
- 10 *Whereas*, Whole scrap tires are already prohibited from being
- 11 placed in landfills;
- 12 *Whereas*, Scrap tire stockpiles improperly managed pose a risk
- 13 to public health and safety and constitute a perfect breeding
- 14 ground for disease-carrying vectors, including encephalitis-car-
- 15 rying mosquitoes; and
- 16 *Whereas*, Improperly managed scrap tire stockpiles present fire
- 17 hazards, and while tires are themselves not hazardous, when they
- 18 burn they release hazardous substances, including known carcino-

19 gens such as bezo(a)pyrene and benzene, and oil that may contain
20 heavy metals, including arsenic, cadmium, chromium, and lead;
21 and

22 *Whereas*, The illegal stockpiling of scrap tires has resulted in
23 criminal prosecutions brought by the Attorney General's office
24 and, due to the potential for the release of hazardous materials
25 during fires at such stockpiles, abatement of such stockpiles has
26 occurred through the use of funds normally intended for cleanup
27 of hazardous waste under the state's oil and hazardous materials
28 release law, using funds normally intended for the cleanup of haz-
29 ardous waste to abate tire dump sites; and

30 *Whereas*, The estimated cost of fighting fires at tire stockpiles
31 is significant, at one fire alone costs borne by the Commonwealth
32 exceeded \$300,000 and consumed 1,200 hours of supervision; and

33 *Whereas*, Estimated ratio of costs of firefighting and post-fire-
34 fighting activities at tire stockpiles compared to normal stockpile
35 abatement activities is 10 to one; and

36 *Whereas*, There are many existing and potential markets for
37 whole and processed scrap tires including production of rubber-
38 modified asphalt, rubber and plastic products, and use of tires for
39 tire-derived fuel in power plants, cement kilns, pulp and paper
40 plants,

41 It is hereby resolved, That in order to ensure the identification
42 and efficient cleanup of the existing scrap tire stockpiles in the
43 Commonwealth and to assure that the annual generation of scrap
44 tires in the Commonwealth is collected, transported, stored, dis-
45 posed, processed, and managed in a proper manner so as to pre-
46 vent the health and safety problems described above, the General
47 Court hereby establishes the Scrap Tire Abatement and Manage-
48 ment Program.

1 SECTION 2. Definitions.

2 Section 2 of Chapter 21H of the General Laws, as appearing in
3 the 2002 Official Edition, is hereby amended as follows:—

4 by inserting, in line 9, the words “a scrap tire stockpile abate-
5 ment project or” after the words:— Clean up; and

6 by adding, in line 15, following the word “facility,” the words
7 “or for the closure or abatement of a scrap tire stockpile or for the

8 closure of a site or location owned or operated by a scrap tire col-
9 lector”.

10 Section 2 of said Chapter 21H is further amended by inserting,
11 after line 35, the following:—

12 “Energy recovery” means using the heat content or other forms
13 of energy from the burning or pyrolysis of scrap tires.

14 “End use market” means any person that receives whole or
15 shredded tire materials and utilizes the materials as a finished
16 product or as a raw material for a manufacturing, retreading, or
17 energy recovery process. The activity of processing, itself, is not
18 an end market.

19 Section 2 of Chapter 21H is further amended by inserting, in
20 line 39, as part of the definition for “facility,” the words “scrap
21 tire stockpile” after the words “composting plant.”

22 Section 2 of said Chapter 21H is further amended by inserting,
23 after line 42, the following:—

24 “New tire” means a tire that has never been placed on a motor
25 vehicle wheel rim. The term does not include retreaded tires.

26 Section 2 of said Chapter 21H is further amended by inserting,
27 in line 52, after the word “property,” the words “, and any stock-
28 piling of scrap tires or shredded tire material.”

29 Section 2 of said Chapter 21H is further amended by inserting,
30 after line 56, the following:—

31 “Recycling” means to recover materials or byproducts which
32 are: (a) a reused; of (b) used as an ingredient or a feedstock in an
33 industrial or manufacturing process to make a marketable product
34 or (c) used in a particular function or application as an effective
35 substitute for a commercial product or commodity. Recycle does
36 not mean to recover energy from the combustion of a material.

37 “Retreaded tire” means a tire that has had its original tread
38 and/or shoulder removed from the casing and replaced with a new
39 tread and/or shoulder to extend its serviceable life. Once the ser-
40 viceable life of the retreaded tire has been exhausted, the tire
41 becomes a scrap tire.

42 “Scrap tire” means any whole tire or part of a tire that is no
43 longer being used on a motor vehicle because of wear, damage or
44 defect, whether or not the tire can be retreaded. This term includes
45 retreaded tires that have exhausted their serviceable life.

46 “Scrap tire collector” means a person who possesses some
47 quantity of scrap tires or shredded tire material, and includes scrap
48 tire generators, transporters, processors, end use markets, and
49 solid waste disposal facilities. This term does not include a person
50 who has collected or stored at his or her place of residence five
51 scrap tires or less nor does it include any person exempted by
52 Department regulations under this Chapter.

53 “Scrap tire generator” means a person that removes a tire from
54 a vehicle without reinstalling it on that or any other vehicle. This
55 term includes persons who sell new tires at retail and persons who
56 retread tires insofar as the person who retreads tires has on the
57 premises or under his/her control any quantity of retreaded tires
58 that have exhausted their serviceable life as a retreaded tire, or
59 who have on their premises or under his/her control any quantity
60 of other scrap tires. This term does not include to a person who
61 has collected or stored at his or her place of residence five scrap
62 tires or less.

63 “Scrap tire processor” means a person who alters, converts, or
64 size-reduces scrap tires for recycling or energy recovery. This
65 term does not include a person that retreads tires.

66 “Scrap tire stockpile” means any site or location that is used for
67 the storage, collection, deposit, or disposal of scrap tires or
68 shredded tire material not in conformity with the provisions of
69 this Act or regulations promulgated under this Act. This term does
70 not include tires located at a residential household as long as there
71 are not more than five tires at that site.

72 “Scrap tire stockpile abatement” means preventive or corrective
73 measures including, but not limited to, fire prevention or mosquito
74 control measures, and/or removal, cleanup, or closure of scrap tire
75 stockpiles and/or shredded tire materials not properly stored or
76 managed for proper processing and/or disposal.

77 “Scrap tire transporter” means a person who transports scrap
78 tires or shredded tire material for the purpose of storage, pro-
79 cessing, disposal, or end use. This term does not include a person
80 who transports from his or her place of residence not more than
81 ten scrap tires to a registered transporter, registered processor, or
82 to a location established by a town or municipality as part of a
83 “scrap tire amnesty day” in accordance with paragraph (d) of
84 Section 4D.

85 “Shredded tire material” means pieces of scrap tire resulting
86 from the processing, cutting, or other size-reduction of scrap tires.

1 SECTION 3. Chapter 21H of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by adding the
3 following sections between Sections 4 and 5:

4 Section 4A. Scrap Tire Management Program.

5 To bring about the abatement of scrap tire stockpiles and the
6 proper management of scrap tire generation, the Bureau of Waste
7 Prevention of the Department shall create a Scrap Tire Manage-
8 ment Program, to be controlled by the Division of Solid Waste.
9 The Department shall adopt rules, regulations, procedures and
10 standards as may be necessary for the implementation of this pro-
11 gram.

12 In creating and implementing the Scrap Tire Management Pro-
13 gram, the Department shall consider whether scrap tires and
14 shredded tire material may be used in energy recovery facilities
15 within the Commonwealth in a manner protective of public health,
16 safety, and the environment and, if so, shall adopt rules, regula-
17 tions, procedures and standards regarding such use.

18 Section 4B. Identification of Scrap Tire Stockpiles.

19 Within twelve months of the enactment of this Act, the Depart-
20 ment will conduct a study and prepare a list based upon the study
21 identifying existing scrap tire stockpiles in the Commonwealth.
22 The Department must include in its list the location of the stock-
23 piles; name(s), addresses, telephone numbers of owner/operators
24 of stockpiles; estimated number of scrap tires in each stockpile;
25 and general condition of the stockpiles.

26 The Department must make the list available to the public upon
27 request.

28 The Department must also rank each identified scrap tire stock-
29 pile in terms of the priority it should receive in carrying out
30 enforcement activities under this Act and other applicable laws of
31 the Commonwealth. The following criteria, at a minimum, will be
32 used in determining rank and priority status for scrap tire stock-
33 piles: number of tires in stockpile; threat posed by potential fires;
34 health risks posed by stockpile; complaints brought to the atten-
35 tion of the Department concerning a stockpile; enforcement
36 actions brought against or to be brought against operator/owner of

37 stockpile; willingness of owner/operator of stockpile and/or local
38 authorities to expedite abatement activities at stockpile; and prox-
39 imity of stockpile to populated areas and density of populations.

40 Section 4C. Scrap Tire Management Fee.

41 (a) Beginning six months after the effective date of this
42 Chapter, for any new tire sold at retail, the retailer shall pay the
43 following fee:

44 (1) any new tire having a rim diameter of 20 inches or greater, a
45 fee of \$3.00 must be paid,

46 (2) for any new tire having a rim diameter less than 20 inches, a
47 fee of \$1.50 must be paid.

48 (b) All fees to be paid in accordance with subsection (a) of this
49 section, shall be submitted in accordance with section sixteen of
50 chapter sixty-two C of the General Laws, as appearing in the 1998
51 Official Edition, such fees to be accounted for separately from
52 sales tax proceeds. Fees paid in accordance with this section shall
53 be paid into the Scrap Tire Management Fund established under
54 Section 4D of this Chapter. The fees shall be collected in accor-
55 dance with regulations developed under this Chapter.

56 (c) Each person who sells new tires at retail and who must pay
57 fees in accordance with this section must maintain in his or her
58 books and records evidence that the appropriate fee was paid for
59 each new tire sold. All records, invoices, and other documents
60 showing the number of new tires sold by such person and payment
61 of the required fee must be made available for inspection by the
62 Department of Environmental Protection and the Department of
63 Revenue.

64 (d) The requirement that this fee be paid will terminate ten
65 years from the enactment of this Act, unless legislation is passed
66 extending the fee payment period.

67 Section 4D. Scrap Tire Management Fund.

68 The Scrap Tire Management Fund shall be used for the
69 following purposes:

70 (a) scrap tire stockpile abatement performed or authorized by
71 the Department (no less than 60% of the amounts credited to the
72 Fund must be used for scrap tire stockpile abatement, provided
73 that when and if 50% of the stockpiles are abated, only 30% of the
74 amounts credited to the fund must be used for scrap tire stockpile
75 abatement);

76 (b) low interest loans and grants to support business endeavors,
77 including but not limited to, research and development projects
78 regarding the generation, reuse, recycling or disposal of scrap
79 tires, provided that no low interest loans or grants may be pro-
80 vided for any business endeavors involving combustion of scrap
81 tires for energy recovery;

82 (c) development and distribution of educational materials on
83 the scrap tire problem in the Commonwealth, the importance of
84 reuse and recycling of scrap tires, and the purpose and structure of
85 the scrap tire management program;

86 (d) preparation of guidance and information for towns and
87 municipalities in the Commonwealth concerning the establishment
88 of “scrap tire amnesty days” whereby residents may bring up to
89 five scrap tires per person to a designated location within the town
90 or municipality to be picked up by a registered scrap tire trans-
91 porter for delivery to a registered processor in accordance with
92 this Chapter;

93 (e) additional Department personnel needed to implement,
94 enforce and operate the scrap tire management program, including
95 conducting of a study of the effectiveness and details concerning
96 the program;

97 (f) establishment of a grant program to be administered by the
98 state fire marshal to provide funds to local fire departments for the
99 purchase of firefighting suppression equipment and supplies to
100 mitigate fires at tire stockpiles (this amount will not exceed
101 \$50,000 per year) and to the department of fire services to develop
102 and administer fire training programs for participation by local
103 fire departments specific to tire stockpile fires (not to exceed
104 \$25,000 per year); and

105 (g) an audit performed once every two years by an independent
106 accounting firm to ensure that the allocation decisions and the
107 uses of Fund monies by recipients are consistent with the purposes
108 of this Chapter.

109 Section 4E. Scrap Tire Generators.

110 Each person who sells or offers for sale new tires at retail or
111 retreaded tires at retail must accept from each customer at least
112 one scrap tire for each one sold by such person to the customer.

113 Section 4F. Scrap Tire Management Tracking Form.

114 The Department must develop a Scrap Tire Management
115 Tracking Form (“tracking form”). The tracking form must include
116 space to record at least the following information:

117 (i) name, address, telephone number, and signature of the scrap
118 tire generator;

119 (ii) name, address, telephone number, and signature of the scrap
120 tire transporter;

121 (iii) name, address, telephone number, and signature of the
122 scrap tire processor, end use market, or permitted disposal facility;
123 and

124 (iv) the number or total weight of scrap tires being transferred
125 for collection, storage, transportation, processing, or disposal.

126 Section 4G. Scrap Tire Transporter.

127 (a) Registration.

128 Within twelve months of the effective date of this Act, each
129 scrap tire transporter must register with the Department on a reg-
130 istration form to be developed and made available to transporters
131 by the Department. The registration form shall include informa-
132 tion on transporter and transporter vehicles. The Department shall
133 require a registration fee to cover the costs of administering and
134 determining compliance with this section. The transporter must
135 also secure and maintain liability coverage pertaining to scrap tire
136 and shredded scrap tire transportation. Such registration shall be
137 subject to suspension and revocation for failure to comply with
138 any provision of this Chapter.

139 (b) Scrap Tire Management Tracking Form.

140 A scrap tire transporter that accepts scrap tires from a scrap tire
141 generator or shredded tire material from a scrap tire processor
142 must provide said generator/processor with a copy of the tracking
143 form required under Section 4F. The fees collected under this
144 Section shall be paid into the Scrap Tire Management Fund estab-
145 lished under Section 4D of this Chapter. The tracking form must
146 be signed and completed by both the transporter and the gener-
147 ator/ processor. The tracking form must be signed and completed
148 before the scrap tires or shredded tire materials are removed.
149 Within 30 business days of delivery to the transporter of the scrap
150 tires or shredded tire materials, the transporter must provide a
151 copy of the tracking form, signed and completed by such
152 processor, end use market, or solid waste management facility to

153 all signatories of said form. All signatories must maintain a copy
154 of the tracking form for a period of six years from the date of
155 completion and make them available to the Department of Envi-
156 ronment and the Department of Revenue upon request.

157 Section 4H. Scrap Tire Processors.

158 (a) Notwithstanding any other permits or licenses required
159 under this Act or other laws of the Commonwealth, within twelve
160 months of the effective date of this Act, each scrap tire processor
161 in the Commonwealth must register with the Department. The
162 Department shall charge a fee for such registration to cover the
163 cost of registration review and determination of compliance with
164 this Act. The fees collected under this Section shall be paid into
165 the Scrap Tire Management Fund established under Section 4D of
166 this Chapter.

167 The registration must contain, at a minimum, the following: the
168 name and address of the owner and/or operator of the business;
169 the name and address of the business; a description of the type of
170 scrap tire processing business being operated or to be operated at
171 the described location; and the number of scrap tires processed or
172 likely to be processed annually, including the number of scrap
173 tires generated in the Commonwealth and the number of scrap
174 tires that will be accepted from outside of the Commonwealth, if
175 any. Such registration shall be subject to suspension and revoca-
176 tion for failure to comply with any provision of this Chapter.

177 (b) The Department shall also promulgate regulations con-
178 cerning recordkeeping that would enable a processor who so
179 chooses to qualify as eligible for the mandatory procurement
180 specifications described in paragraph (f) of section 4L. Such
181 recordkeeping requirements must, if complied with, enable a
182 processor to demonstrate to the Department that at least 10 per-
183 cent of the scrap tires processed on an annual basis by the
184 processor are derived from scrap tire stockpiles identified under
185 section 4B of this Chapter. The recordkeeping provisions devel-
186 oped under this section must require, at a minimum, that informa-
187 tion on the number of tires derived from a stockpile or stockpiles
188 be recorded, specifically identifying the stockpile(s) and date(s)
189 on which the scrap tires from such stockpile(s) were derived, and
190 the number of scrap tires derived from sources other than scrap
191 tire stockpiles.

192 (c) A scrap tire processor must sign and maintain a properly
193 completed copy of the scrap tire management tracking form, as
194 required by Section 4F of this Act, for each shipment or delivery
195 of scrap tires by a scrap tire transporter. A processor must make
196 each scrap tire management form available to the Department for
197 inspection upon request.

198 (d) The Department, by regulation, shall require a scrap tire
199 processor, as a condition of registration, to accept up to 10 scrap
200 tires from a person who is a resident of the Commonwealth and
201 who has collected or stored at his or her place of residence 10 tires
202 or less and who delivers or causes to be delivered such scrap tires
203 to such registered processor or to a registered transporter trans-
204 porting scrap tires for a registered processor in accordance with a
205 “scrap tire amnesty day” established by a city or town in the Com-
206 monwealth pursuant to paragraph (e) of Section 4D of this
207 Chapter. Such scrap tire processors must maintain a log, with
208 name, signature, address of resident delivering scrap tires, and the
209 number of scrap tires and date of delivery of such scrap tires to
210 such processor. Said log of residential scrap tires delivered to
211 scrap tire processor must be maintained by scrap tire processor for
212 a period of six years from date of delivery of scrap tires and must
213 be made available to the Department for inspection upon request.

214 Section 4I. Storage, Management, and Disposal of Scrap Tires.

215 Within twelve months of the effective date of this Act, the
216 Department shall promulgate regulations prescribing the standards
217 for the storage, management, and disposal of scrap tires. Regula-
218 tions pertaining to storage, management, and disposal of scrap
219 tires by scrap tire collectors must include, at minimum, the
220 following:

221 (a) criteria for minimizing the danger of fires, including dimen-
222 sions for piling tires and minimum aisle spacing;

223 (b) vector and nuisance control plan;

224 (c) recordkeeping and reporting;

225 (d) security of disposal facility;

226 (e) indoor and outdoor scrap tire storage requirements;

227 (f) financial assurance criteria, as required by Section 4K of
228 this Act; and

229 (g) closure plans, as required by Section 4K of this Act.

230 In order to ensure that regulations developed under this section
231 minimize the danger of fires, the Department shall consult with
232 and obtain the approval of the state fire marshal.

233 Section 4J. Collection, transportation, storage, etc., of scrap
234 tires; prohibited acts.

235 No person shall sell, collect, transport, store, process, or dis-
236 pose of scrap tires in a manner inconsistent with any provision of
237 this chapter, or of any rule, regulation, standard, license, permit,
238 order, or approval issued or adopted hereunder.

239 No scrap tire collector or person who otherwise comes into pos-
240 session of scrap tires shall transfer custody or possession of such
241 tires to any other person without signing a Scrap Tire Manage-
242 ment Tracking Form in accordance with Section 4F; provided,
243 however, that the Department, by regulation, may exempt from
244 this prohibition the transfer of up to five scrap tires by a person
245 who is a resident of the Commonwealth and who transfers custody
246 of such scrap tires to a scrap tire transporter, registered in accor-
247 dance with section 4G of this chapter, as part of a “scrap tire
248 amnesty day” established by a town or city in the Commonwealth
249 pursuant to paragraph (d) of section 4D of this Chapter.

250 No scrap tire collector or person who otherwise comes into pos-
251 session of scrap tires or shredded tire material shall transfer cus-
252 tody or possession of such scrap tires or shredded tire materials to
253 any scrap tire transporter or scrap tire processor who does not
254 have a valid registration issued pursuant to this Chapter.

255 No scrap tire transporter shall transport scrap tires or shredded
256 tire material to any person other than a scrap tire processor, end
257 use market, solid waste disposal facility that is operating in accor-
258 dance with Section 4I of this chapter, or to a location designated
259 for the purpose of a “scrap tire amnesty day” in accordance with
260 paragraph (d), Section 4D, and regulations issued or adopted here-
261 under.

262 No scrap tire processor shall accept scrap tires or shredded tire
263 material from any person other than a scrap tire transporter regis-
264 tered in accordance with section 4G of this Chapter.

265 No person shall act in the capacity of, or advertise as, or
266 assume to act as a scrap tire transporter or processor unless such
267 person is in possession of a valid scrap tire transporter or
268 processor registration issued pursuant to this chapter.

269 Section 4K. Financial Assurance and Closure.

270 (a) Within 12 months of the effective date of this Act, the
271 Department shall promulgate regulations requiring that scrap tire
272 collectors and the owners and/or operators of scrap tire stockpiles,
273 except as may be specifically exempted by the Department in such
274 regulations, submit plans to be followed in the event of any neces-
275 sary closure of scrap tire stockpiles or any sites or locations where
276 scrap tires are located. Regulations shall address the requirements
277 of closure and post-closure plans. Such plans must be submitted
278 by subject scrap tire collectors and be approved by the Depart-
279 ment. Such plans must be developed and submitted to the Depart-
280 ment by scrap tire collectors as well as by owners and/or operators
281 of scrap tire stockpiles.

282 (b) Within 12 months of the effective date of this Act, the
283 Department shall promulgate regulations requiring a scrap tire
284 collector to establish or obtain, and continuously maintain, finan-
285 cial assurance that is adequate to assure the Department that the
286 scrap tire collector is at all times financially capable of complying
287 with this Act and the regulations promulgated under it. The finan-
288 cial assurance required under this Act shall be no less than the
289 estimated cost of closure and post-closure activities with respect
290 to the scrap tires under the control or in the possession of the
291 scrap tire collector.

292 Section 4L. Encouraging the Reuse, Processing, Recycling, and
293 Retreading of Scrap Tires, and the Purchase of Retreaded Scrap
294 Tires and/or Products Made From Whole or Processed Scrap
295 Tires.

296 Within twelve months of the effective date of this Act, the
297 Department, as part of the Scrap Tire Management Program, will
298 establish a program to encourage the processing and reuse of
299 scrap tires, the retreading of tires, development of end use markets
300 for scrap tires in the Commonwealth and the purchase by the
301 Commonwealth and its political subdivisions of products made
302 from recycled and/or whole scrap tires and retreaded tires. The
303 program must include at a minimum:

304 (a) a list of scrap tire processors in the Commonwealth;

305 (b) developing, updating, and making available upon request to
306 government agencies and the public, a list of tire retreaders and
307 suppliers of products made from whole and processed scrap tires,

308 including information on the types of products made by such sup-
309 pliers and the addresses and telephone numbers of such retreaders
310 and suppliers;

311 (c) a program to provide low interest loans and grants to sup-
312 port business endeavors involving reuse and/or processing of
313 scrap tires or the manufacturing of products made with scrap tire
314 content;

315 (d) updating the “Recycling Services Directory and Market
316 Guides for Massachusetts” and other pertinent documents and
317 publications concerning recycling to include scrap tire recycling
318 and scrap tire services in the Commonwealth;

319 (e) the establishment by the Commonwealth of a preventive
320 maintenance program for state vehicles to extend the life of tires,
321 the program shall include training materials related to extending
322 tire life and methods for proper tire repair; and

323 (f) coordinating with other departments and agencies of the
324 Commonwealth, providing specific guidance to the Massachusetts
325 Highway Department, concerning the development of procure-
326 ment specifications encouraging the use of whole and/or
327 processed scrap tires, retreaded tires, and products made from
328 whole or processed scrap tires. The procurement specifications
329 shall include a preference for the use of whole and/or processed
330 scrap tires, retreaded tires, and products made from whole or
331 processed scrap tires where such scrap tires, retreaded tires, or
332 products cost no more than 10 percent above the cost of alterna-
333 tives to the use of scrap tires, retreaded tires, or products not made
334 from whole or processed scrap tires, provided that five years after
335 the enactment date of this Chapter, in order for the preference to
336 apply, the cost differential may not be more than five percent.
337 Additionally, for agencies and departments of the Commonwealth,
338 but not for cities and/or towns in the Commonwealth, the procure-
339 ment specifications shall mandate — rather than create a prefer-
340 ence for — the use of processed scrap tires and/or products made
341 from whole or processed scrap tires, where the processor can
342 demonstrate through recordkeeping in accordance with regulations
343 to be developed by the Department under paragraph (b) of section
344 4H that at least 10% of the scrap tires recycled or processed by the
345 processor have been obtained from stockpiles identified and listed
346 by the Department under 4B, provided that such products cost no

347 more than 10% above the cost of comparable products made
348 without the use of recycled or processed scrap tires. This para-
349 graph of Section 4L shall apply notwithstanding any contrary pro-
350 visions of the GL Chapter 30B and any other law governing
351 procurement.